

**Alexandria Township
Land Use Board
Meeting Minutes May 20, 2021**

Chair Rochelle called the regular meeting of the Alexandria Township Land Use Board to Order at 7:30 pm. This Virtual Meeting is called pursuant to the provisions of the Open Public Meetings Act. Both adequate and electronic notice of this virtual meeting has been provided by way of publication in the Hunterdon County Democrat newspaper on or about January 28, 2021. In addition, notice of the meeting was posted on the door of the Alexandria Township Municipal Office located at 242 Little-York Mt. Pleasant Road, Milford and any handicapped-accessible entrances thereto; posted on the municipal website; provided to the municipal Clerk and distributed to all persons, if any, requesting copies of same. This meeting is being recorded with both audio and video and may be rebroadcast. This meeting is a judicial proceeding, any questions or comments must be limited to the issues that are relevant to what the Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.

Members Present: Chair Rochelle, Papazian, Fritsche, Freedman, Canavan, Tucker, Committeeman Kiernan, Giannone, and Kimsey.

Members Absent: Deputy Mayor Pfefferle, Pauch, and Hahola

Board Professionals Present: Kara Kaczynski-Attorney, David Banisch-Planner, Tom Decker-Engineer

Others Present:

De Sapio Properties #6 Inc: Guy De Sapio-Attorney, Jay Troutman-Traffic Engineer, Yuuji Crance-Witness, Antonio De Sapio- Member.

K Street: Michael Selvaggi-Attorney, Robert Aromando-Applicant, Peter Fleming-Engineer.

Minutes Approval

A motion to approve the April 15, 2021 Regular Meeting Minutes of the Land Use Board was made by **Papazian** and seconded by **Freedman**. **Ayes: Chair Rochelle, Papazian, Fritsche, Freedman, Canavan, Tucker, Committeeman Kiernan, Giannone, and Kimsey. No Nays. Motion Carried.**

Kaczynski announced the two ways to review the meeting documents which are posted on the Alexandrianj.gov website. One go to Government, Land Use, and Agendas; the second one is News in the center column on the main page. An agenda and meeting link are on the appropriate Land Use meeting date.

New and Pending Matters

- De Sapio Properties #6 Inc and Delaware River Tubing, LLC – Amended Site Plan – Public Hearing
Block 17.01 Lots 12
776 Milford-Frenchtown Road

Attorney De Sapio announced the continuance of the public hearing. He advised the planner for the applicant will be providing a report at a later date. De Sapio called upon Antonio De Sapio as a witness; he was sworn in. Antonio De Sapio advised he is a managing member of De Sapio #6, LLC and testified that he was present for the site plan approval in 2016. He recalled the jersey barriers were to be put up as part of the site plan from 2016. Antonio De Sapio described the barriers, location, and purpose for traffic control. He described the equipment needed and effort needed to lift and move the barriers,

each weighing 4 tons. The barriers were required in order to control the bus traffic with spacing in between the barriers for customers to get to the bus. It was required that at the end of the tubing season, the barriers were to be removed. He advised there is an expense to remove the barriers. Also, removing the barriers for 9 months out of the year causes tenants to get used to parking in this area. Moving them back again will cause complaints from the tenants. Antonio De Sapio advised there are two tenants that use the building and they have sufficient parking based on the 2016 site plan. There is no reason for them to have parking in the front of the building during the rest of the year.

Antonio De Sapio testified that the property is in the Industrial Commercial Zone of the Township. He advised there are two other business in the zone that have outside storage. Some displays for these businesses are in front of the store. Attorney De Sapio advised the relevance for the testimony is with regards to businesses using outside storage in the zone. **Kaczynski** advised this testimony should at some time be clarified by the applicant's planner for the Board. Antonio De Sapio continued with another business in the Industrial Commercial Zone and described the outside storage and product. Antonio De Sapio testified that there are no homes immediately across the street from Delaware River Tubing and instead a steep rock-based incline that leads to an elevated area.

Attorney De Sapio advised that in 2016 there was a condition of approval from the Hunterdon County Planning Board that the telephone poles along the road be relocated. Antonio De Sapio advised that the new poles have been put in but the wires have not been moved to the new poles. The old poles have not been removed. He advised that most of the applicants' work has been done, however the County will not release the bond before the work has been completed. Until the power company completes moving the power lines and removing the poles, they are unable to finish the Belgian block and curbing. Curbing along the county road was a condition of the previous site plan approval. Although the Belgian block curbing has been installed by the applicant, the County required that they use topsoil to cover the curbing until the utility company can move the wires and remove the old poles. The applicant advised they complied with this condition however they are waiting for the power company.

Attorney De Sapio referenced a review letter from the Board engineer noting a letter from the NJDEP.

25. The Township is in receipt of a letter dated March 25, 2020 from NJDEP Bureau of Solid Waste Compliance & Enforcement expressing serious concern with the application. A copy of the letter is attached for reference. NJDEP has identified that a portion of the previously proposed parking lot appeared to fall within the boundary of the existing landfill and that the extent of the landfill boundary has never been accurately delineated. NJDEP also had concerns regarding the previously proposed stormwater management basin and altered use of the property. A copy of the letter is enclosed for reference.

- a. Applicant should provide testimony regarding the status of the existing landfill.
- b. Given the proximity of the landfill to the parking lot, we recommend installation of a six (6) foot high black clad chain-link fence encompassing the landfill to restrict pedestrian and vehicular access.
- c. A metes and bounds description of the landfill area, as approved by NJDEP, should be provided and delineated on the site plans.
- d. Approval from the NJDEP Solid Waste should be required as a condition of any approval that may be granted by the Board.

Antonio De Sapio advised that the landfill which was formerly on the property that was Georgia Pacific's, is currently not in use. Antonio De Sapio has had discussions with NJDEP regarding the closure of the land fill by George Pacific.

The previous site plan application encompassed some additional parking spaces to the south of the present spaces on the lot. One of the reasons to remove the request for the additional parking spaces is because the NJDEP could not definitively determine the boundaries of the landfill. Some of those parking spaces might be within the boundary of what is perceived to be the landfill. It is still the case that the boundaries have not been determined by Georgia Pacific and the NJDEP. Antonio De Sapio said that NJDEP advised that he should not do anything in that area to the south until it has been resolved by NJDEP, Georgia Pacific and De Sapio Properties. The applicant feels that because they are not using the parking spaces in that area, the work does not need to be done there.

Decker asked if there were any adverse effects affecting parking from the jersey barriers being put in. Antonio De Sapio advised that placing the jersey barriers had helped the traffic flow and parking. He also felt this was a good design by the applicant's engineer and township engineer. Antonio De Sapio said the tenants like the parking arrangement as it is now, and like having their own private parking. **Decker** asked if whether or not the barriers are there, if the tenants have adequate parking. Antonio De Sapio there is enough parking even when the barriers are there. He advised that if the barriers are removed and put back in, people will be upset when they are accustomed to parking in those areas again.

Decker asked about the utility poles and when the last time that JCP&L had been contacted. Antonio De Sapio advised in about six months. **Decker** advised he would try to reach out to the power company to stress the importance of moving the telephone poles. **Decker** asked the applicant for the contact at the power company.

Decker asked about the limits of determination of the contamination. Antonio De Sapio advised they had asked for a map of the limits of the landfill but none has been provided. **Decker** asked with regards to the southern area that was originally proposed for parking but has since been removed, if the applicant would be willing to put in fencing or any other preventative measure to keep people from using that area for parking. He continued that over the past few years it has been used for overflow parking when it is not supposed to be used. Without a barricade, it is tempting to park for overflow and should be restricted. Antonio De Sapio advised that he agrees, however NJDEP advised for them to put chains across a pathway. When they did as requested, they were told they could not do any digging in that area and the chains needed to be removed. He advised that he has not received a definitive answer to his question from the NJDEP if he could use the area for parking. **Decker** advised that because the bollards with the chain across them were depicted on the site plan, it may have been part of the original site plan. **Decker** advised that it is more common that a chain link fence would surround a contaminated area. Antonio De Sapio advised that **Decker** is correct and the state is requiring Georgia Pacific to put a fence up. Attorney De Sapio confirmed with the applicant that they had nothing to do with the landfill being there and it happens to be on the applicant's property.

Kaczynski asked if the NJDEP have an open enforcement case against De Sapio Properties. Attorney De Sapio advised there was a Notice of Violation that had to do with the location of some of the improvements. He advised that he believes it had to do with the bollards and chains, and the parking on the landfill, but he needs to check his records. **Kaczynski** referenced the second paragraph from the NJDEP letter and marked the letter dated March 25, 2020 as exhibit PB-3. This letter was attached onto **Decker's** review letter dated June 29, 2020.

The NJDEP has serious concerns with the above application and associated site plans. First, at least a portion of the parking lot appears to fall within the boundary of the landfill (please note also that the actual extent of the landfill boundary has never been accurately delineated as required). Any construction activities on the landfill proper require a Landfill Disruption Permit issued by the NJDEP's Bureau of Solid Waste Permitting prior to occurring. Second, the design and operation of the pond is unclear.

Kaczynski continued with the top of page 2 of this letter.

Michael DePalma and Michelle Bobrowski
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people and the environment, including, but not limited to, the Delaware River. Furthermore, the NJDEP currently has an open enforcement case against DeSapio Properties #SIX and another responsible party, the resolution of which is currently being negotiated. The ongoing violations at the landfill include, but are not limited to:

- Leachate discharges from the landfill directly into the Delaware River;
- Releases of methane gas from the landfill (the most recent sampling event reflected methane readings between 45.7 and 63.4% in 5 different locations) without any type of passive or active methane control system in place;
- Inadequate cover material, with exposed waste in several areas;
- Lack of a fence or other method of preventing unauthorized access to the landfill; and
- Failing to regularly sample and report monitoring results for landfill gases, surface water, and ground water.

Attorney De Sapio noted that he never received the letter directly from the NJDEP but instead received it from **Decker**. Antonio De Sapio advised that they still don't have the delineation from Georgia Pacific. Attorney De Sapio takes the position that the Land Use Board should not impose conditions that are within the jurisdiction of the NJDEP such as the fence and location of the landfill limits, when this is the landfill operator's responsibility.

Banisch asked for the specifics of what had been discussed regarding the landfill between the NJDEP and De Sapio Properties and if they had anything in writing. Antonio De Sapio advised they had originally talked to Georgia Pacific's attorney and engineer. He recalled the last meeting with NJDEP but there was no resolution.

Banisch summarized by saying that he believes NJDEP is saying that you cannot do anything until the limits of the landfill are known. The NJDEP issued a notice of violations for improvements that DRT had taken. Antonio De Sapio advised that the only thing that the NJDEP was complaining about were the bollards and the chains and that they had walked around the entire site. Attorney De Sapio clarified that he needs to go through his files to see what the specific violation was. His understanding is that the landfill limits in some areas will not be known until test boring is done. Antonio De Sapio advised that the state knew the product that was being brought in and was monitoring the wells and the site.

Kaczynski advised that she believes the issue that the NJDEP has, is with the delineation of the landfill.

Banisch asked for the notice of violation from the NJDEP to be presented to the Board. Attorney De Sapio advised that he would share that with the Board, unless there is a reason not to, and if not, he will advise the board attorney why. **Banisch** asked how the applicant intends to close off the limits of the parking so that the southerly side of the lot that was illegally used for parking will not be used that way again. Attorney De Sapio clarified his opinion is that they have existing approval and are not asking for

anything other than the tents for storage, parking more vehicles and buses in the back, and to not move the jersey barriers. **Banisch** explained the concern is how will the applicant intends to prevent parking in that portion of the lot. He also asked about what type of restoration will be done for that side of the lot. Attorney De Sapio advised that he won't do anything on that side of the lot unless NJDEP approves it. Antonio De Sapio advised the state said the area should be kept clear of vegetation. Attorney De Sapio advised imposing the condition of putting up a fence when they do not know where it should be is unreasonable for something that happens for eight days out of the year. He advised a reasonable accommodation would be for the applicant to put up signs advising that there is no parking beyond this point. **Banisch** asked for an exhibit to the Board to that effect before the next meeting. Attorney De Sapio agreed.

Attorney De Sapio advised his planner will have his report and some pictures of outdoor storage of neighboring businesses. **Kaczynski** advised this needs to be submitted to the Board two days prior to the meeting.

Banisch asked about the type of containers that will be used for storage. Antonio De Sapio advised that the containers they use will only be used for storage 2 months out of the year, where the neighboring sites use their storage 365 days a year. He did not want to get into the business of pointing fingers though. **Kaczynski** advised to wait for the applicant's planner's testimony.

Attorney De Sapio advised that Georgia Pacific was tasked with a plan to the NJDEP for developing the closure of the landfill and that the applicant understands that such a proposal has been submitted by Georgia Pacific to the NJDEP.

Chair Rochelle asked for questions from the Board. **Kiernan** advised that three years ago the area behind the existing parking was a mound with overgrown brush, and that three years ago was incapable of being parked upon. He asked if Mr. Antonio De Sapio had cleared the area and brought in gravel so vehicles could park there. Antonio De Sapio advised that he is not aware that any gravel was brought in. **Kiernan** advised he was going upon aerial photographs. Antonio De Sapio advised the only work that was done was by Crown Castle when they were capping the landfill.

Giannone advised Attorney De Sapio that the traffic engineer has not been in touch with him so far to discuss those five spots and still expects the traffic engineer to do so. Attorney De Sapio advised that the traffic engineer will do that. **Chair Rochelle** asked when DRT will be opening for the season, Yuuji Crance advised there was an anticipated date of June 19th but that is being pushed back. He is hoping to open by July 1st and operate until mid-September. **Chair Rochelle** asked if Yuuji Crance would comply with the existing site plan and limit to 120 spaces. Yuuji advised that he would. He continued the prices online have been increased and where he used to have a capacity of 1500 per day, he will be limiting it to 500 per day. There were no further questions from the Board.

Chair Rochelle asked for any questions from the public. There were none. The hearing was carried to next month on June 17th. No further notice is necessary.

- K Street & Peacefield Management Group – Site Plan – Use Variance – Completeness Review
Block 15 Lot 10
681 Cty Road 513

Kaczynski for the record stated that Class I and Class III members need to recuse themselves since this is a Use Variance. **Papazian** recused himself.

Attorney Michael Selvaggi was present on behalf of the applicant. The application was amended to include both K Street and Peacefield Management Group. The applicant is seeking to convert one of the existing buildings on the property into a bed and breakfast. He referred to the letter submitted by **Decker** on May 18, 2021. Selvaggi advised the taxes were paid and that as soon as they receive receipt from the tax collector, that will be provided.

Selvaggi advised that the amended application will be sent to the Hunterdon County Planning Board and they will submit a copy of the amendment to the Board. With regards to comment A-10, he will forward this to **Decker** and board secretary.

A-10	Copies of any existing protective covenant or deed restrictions and a summary outline of proposed covenants or deed restrictions including applicable open space restrictions and provisions restricting further subdivision applying to the land. <i>A copy of the deed of the preserved property and non-severable exception area should be submitted.</i>
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Regarding A-11, he will have that the beginning of next week.

Checklist Item	Comment
A-11	A written request for individual variances and all waivers. <i>The newly proposed Bed & Breakfast use as described on the submitted plan sheet 7 indicates two instances of non-compliance with B-15 conditional uses. Board of Adjustment application and fees for all required variances must be submitted. See the Additional Comments section below regarding proposed operations.</i>

Selvaggi asked that A-15 be waived for purposes of completeness.

A-15	A signed certification on the drawing, by the owner, that the applicant is either the owner of the land which is the subject of the development application or is authorized by the owner to make the application. <i>This certification was submitted with the application and but not on the plan. Signature may be added to the plan at a later date. A waiver for completeness purposes may be granted.</i>
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Peter Fleming, , engineer for the applicant, commented on A-34 & A-35. He advised the applicants' have hired a wetlands specialist to obtain the required state permits for the wetlands adjacent the proposed bed & breakfast. They would like to submit those plans once submitted to the state.

A-34	The delineation of floodway and flood hazard areas. <i>The proposed bed & breakfast facility is located approximately 105 feet from the existing pond and within the 300-foot riparian zone. The flood hazard area and riparian buffer should be added to the plans.</i>
A-35	Delineation of field identified wetlands where wetlands are identified on the property by the NJDEP Freshwater Wetlands Quarter Quadrangle Maps of by the NJDEP GIS mapping. <i>The NJDEP GeoWeb database indicates wetlands adjacent to the pond and Cakepoulin Creek within 150 feet of the proposed bed & breakfast. It appears that some wetlands have been identified along the pond's edge. Notation should be added to the plans clarifying the origin of the delineation as shown.</i>

Attorney Selvaggi commented with regards to E-4, a description of the operations will be prepared and should be submitted in the early part of next week.

Section E – Preliminary/Final Site Plan	
E-4	<p>A written description of the proposed project, indicating use and nature of operations, number of proposed employees, number and timing of shifts, anticipated traffic, and future expansion plans shall be included.</p> <p><i>A written description of the proposed operations is required. This includes the K-9 training facility, bed and breakfast, use of the remaining buildings and any other anticipated uses. See the Additional Comments section below regarding proposed operations.</i></p>

Selvaggi advised they are asking for a waiver of E-13 for completeness purposes as the buildings are all existing.

E-13	<p>The proposed location and dimensions of proposed buildings and structures, roads, driveways, parking areas, etc., including a preliminary architectural rendering or elevations of proposed structures and a preliminary floor plan.</p> <p><i>Architectural renderings, elevations, and preliminary floor plan are required for the proposed bed and breakfast facility</i></p>
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Fleming advised that E-16 & E-18, the proposed impervious coverage is below 2%. He advised the request for natural features will be shown on the paperwork that is being submitted to NJDEP. With regards to E-20, he advised the stormwater systems would function as they are today and that there is a small amount of paving that will go with the grading as it is today. He advised the septic systems will be required to have permits from the County Board of Health and will be provided to the Township.

E-16	<p>Total impervious coverage in square feet, acres, and percentage of lot area shall be indicated.</p> <p><i>Total impervious coverage in square feet and acres must be provided on the plan. Impervious coverage is well within the 10% allowable. A waiver for completeness purposes may be granted.</i></p>
E-18	<p>Natural features map delineating all existing physical features on the site and within two hundred (200) feet thereof.</p> <p><i>The Cakepoulin Creek is a NJDEP Category 1 Stream and is shown on the plan. The stream's 300-foot riparian zone is not shown. The proposed B&B facility is within the 300-foot riparian zone. The 300-foot riparian zone shall be shown on the plans.</i></p>
E-20	<p>The location and design of existing and proposed stormwater systems, sanitary waste disposal systems and potable water supply, and methods of solid waste storage and disposal.</p> <p><i>Location of the proposed or existing septic disposal system must be shown for the proposed bed and breakfast facility.</i></p>

Chair Rochelle felt that a more detailed description would be required for the Board to fully understand the application. **Decker** advised that Selvaggi summarized the items well, but has a question with regards to E-13. The plan shows that the existing building would be expanded and asked for clarification. Papazian advised that he would like to expand the existing residence used previously by Johnson & Johnson/Ortho farm. **Decker** advised he would defer to the Board if they would like to see the architectural plans or not. **Decker** also advised the bed and breakfast is a conditional use, when any of those conditions laid out in the ordinance are not complied with, it becomes a use variance. **Decker** advised that E-15 & E-16 could be waived for completeness from an engineering standpoint.

Banisch asked for a clarification regarding A-34 & A-35 regarding the delineation of the plan. He felt that the Board would want to see those plans and information. Selvaggi clarified that a copy of the information submitted to the NJDEP will be given to the Board.

Chair Rochelle felt that since the applicant would need some time to put together the architectural rendering, that it would be better to make sure this is complete before the public hearing.

Fritsche advised that he felt there should be review from the SADC since there is Farmland Preservation on the property. Selvaggi advised this is not part of the checklist. **Chair Rochelle** asked if everything proposed is within the exception area. Selvaggi advised yes it is. **Fritsche** advised he was active in the Farmland Preservation process. He advised the SADC was concerned about activity within the exception area on other farms and due to this, these farms were rejected. He explained again that he would like input from the SADC on this application.

Freedman expressed concern with having a completeness review and public hearing in the same meeting which has caused confusion in the past with previous applications. She asked if this could be an issue for the Board to handle this application differently. **Kacynski** advised that it has been an issue in the past and has caused confusion. She continued that she believed that the Board decided not to hold a completeness review and public hearing in the same meeting. **Kacynski** also commented that any waivers granted by the Board for completeness purposes, could later be requested.

Kacynski commented that because a detailed description has not been provided, the full nature of the relief is not known. If it is not known, the notice may not be adequate. **Canavan** and **Tucker** advised that he agrees with the other Board members and feels that more information needs to be obtained. **Giannone** advised the applicant to keep in mind that the bed and breakfast will need to be registered with the division of fire safety.

Canavan made a motion to deem the application incomplete and **Tucker** seconded the motion. **Ayes: Chair Rochelle, Fritsche, Freedman, Canavan, Tucker, Giannone and Kimsey. No Nays. Motion Carried.**

Correspondence

None

Comments from the Board/Public

Fritsche commented that since SADC approval is not part of the checklist, that perhaps it should be. **Decker** advised some of the requirements on the checklist are dated and could use to be updated. There were no comments from the public.

Approval of Bills

A motion was made to approve the bills for the professionals of the Land Use Board by **Tucker** and seconded by **Kiernan**. **Vote: Ayes: Chair Rochelle, Papazian, Fritsche, Freedman, Canavan, Tucker, Committeeman Kiernan, Giannone, and Kimsey. No Nays. Motion Carried.**

Motion to Adjourn

A motion to adjourn was made by **Fritsche** and seconded by **Canavan** at 9:51pm. **Vote: Ayes: Chair Rochelle, Papazian, Fritsche, Freedman, Canavan, Tucker, Committeeman Kiernan, Giannone, and Kimsey. No Nays. Motion Carried.**

Leigh Gronau, Board Secretary